

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

Emmanuel Donaldson
PLAINTIFF,

Civil Action No. 8:15-cv-02141-MGL

V.

Brad Phillips, in his individual capacity

COMPLAINT

John Does 1-20,
DEFENDANTS.

COMPLAINT FOR DAMAGES

Emmanuel Donaldson, through his undersigned attorney, hereby files this Complaint seeking damages against Defendant, sued in his individual capacity, for violation of his constitutional rights under the equal protection clause of the Fourteenth Amendment, and avers as follows:

SUBJECT MATTER JURISDICTION

1. This Court possesses subject matter jurisdiction over the Complaint under 28 U.S.C. 1331 because Plaintiff's claims arise under a federal statute, 42 U.S.C. 1981 and 1983, and the United States Constitution.

PERSONAL JURISDICTION

2. This Court has personal jurisdiction over the Defendants in their individual capacities because Defendants reside in South Carolina; and, their acts or omissions giving rise to Plaintiff's claims occurred in South Carolina.

VENUE

3. Venue is proper under 28 U.S.C. 1391(b) because Plaintiff and Defendant reside in this District; and, the acts or omissions giving rise to Plaintiff's claims occurred in this District.

PARTIES

4. Plaintiff, Emmanuel Donaldson, was discriminated against as a result of his race by Defendant on numerous occasions over the past two years. Plaintiff is an African-American. Plaintiff can be contacted at PO Box 14291, Anderson SC 29624.

5. Sued in his individual capacity, Defendant Brad Phillips is an inspector for the South Carolina State Housing Finance and Development Authority, a state agency. Defendant violated Plaintiff's equal protection rights. Defendant was acting under color of law. Defendant can be contacted at 300-C Outlet Pointe Blvd, Columbia SC 29210.

STATEMENT OF FACTS

6. Plaintiff is a sponsor contractor that rehabilitates low income housing.
7. On or about March 27, 2015, Plaintiff was finishing repairs on a home at which, during a storm, a pine branch had fallen and damaged the hot water heater.
8. Defendant came to the site to inspect the work but refused to do the required inspection.
9. Defendant questioned Plaintiff about the cause of the water heater damage.
10. Plaintiff explained to Defendant that a tree branch fell on it.
11. Defendant said, "I don't believe that."
12. The Oconee County Inspector said it was perfectly believable.
13. Defendant went on to question Plaintiff about the base of the HVAC unit being level.
14. Plaintiff placed a level on the HVAC unit to prove it was level.

15. Defendant refused to accept the reading from Plaintiff's level and demanded he use Defendant's level.

16. Defendant's level showed the HVAC unit was level.

17. Defendant still insisted the HVAC unit was not level.

18. The Oconee County Inspector found that the work was done to code and up to specs.

19. Defendant became indignant and began badgering the plaintiff and his staff about work done on the home.

20. Plaintiff had had numerous confrontations with the defendant over the past two years which made him realize he should just ask the defendant to leave the property to avoid any further quarreling.

21. Defendant left but a few minutes later returned and confronted the plaintiff again.

22. Defendant became indignant and told the plaintiff that he was a "stupid nigger."

23. Again, Plaintiff remained calm and asked Defendant to leave the property.

24. Over the course of Defendant's time as inspector for the city, he has called and questioned any work the plaintiff performs for the organization.

25. Plaintiff has had subcontractors not want to work for him due to the harassment.

26. Plaintiff has filed numerous complaints with Defendant's superiors yet nothing changes.

27. Defendant's actions have caused delays in Plaintiff finishing his work on time as well as added expense in continually redoing work that county inspectors find meeting code.

28. Defendant's constant ridicule and fabricated violations have caused the plaintiff to receive a "suspended" status with the organization, causing even further economic snags.

29. Plaintiff feels threatened by Defendant's actions.

30. Defendant either knew or should have been known, to a reasonable person in like circumstances, that continually harassing Plaintiff due to his race and calling him racial slurs violated Plaintiff's clearly established constitutional right to equal protection.

31. As a proximate cause of Defendant's unconstitutional actions, Plaintiff has lost income; he has suffered immense mental and emotional pain, and; he has suffered great humiliation.

CAUSE OF ACTION

32. Plaintiff re-alleges paragraphs 1-28.

33. In discriminating against Plaintiff due to his race, Defendant has violated Plaintiff's clearly established constitutional right to equal protection under the Fourteenth Amendment and 42 U.S.C. 1981 and 1983 of which Defendant knew or should have been known to a reasonable person in like circumstances.

34. Defendant acted with actual malice against Plaintiff in violating his clearly established constitutional right to equal protection.

35. Defendant's violation of Plaintiff's constitutional rights proximately caused Plaintiff damages in lost income, mental and emotional pain, suffering, and humiliation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that the Court:

1. Award Plaintiff compensatory and punitive damages according to proof against Defendant for violation of Plaintiff's clearly established constitutional right to equal protection.
2. Award Plaintiff attorney's fees under 42 U.S.C. 1988 (b).
3. Grant such other relief as the Court deems just and proper.

JURY TRIAL

Plaintiff demands a jury trial.

ENDORSEMENT AND CERTIFICATION

I hereby certify that the events or omissions giving rise to the claim occurred in Anderson, South Carolina, and thus the complaint should be assigned to that Division accordingly.

/s Donald L. Smith _____
Donald L. Smith

Respectfully submitted,

Donald L. Smith
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com

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